



Senate

General Assembly

File No. 52

January Session, 2013

Senate Bill No. 916

Senate, March 18, 2013

The Committee on Environment reported through SEN. MEYER of the 12th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

***AN ACT AUTHORIZING CIVIL PENALTIES FOR THE FAULTY,
CARELESS OR NEGLIGENT APPLICATION OF PESTICIDES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (b) of section 22a-61 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2013*):

4 (b) It shall be unlawful for any person:

5 (1) To detach, alter, deface, or destroy, in whole or in part, any
6 labeling required under FIFRA;

7 (2) To refuse to keep any records required pursuant to section 22a-
8 58, or to refuse to allow the inspection of any records or establishment
9 pursuant to sections 22a-58 and 22a-59, or to refuse to allow an officer
10 or employee of the Department of Energy and Environmental
11 Protection to take a sample of any pesticide pursuant to section 22a-59;

12 (3) To give a guaranty or undertaking provided for in subsection (c)

13 of this section which is false in any particular, except that a person who
14 receives and relies upon a guaranty authorized under subsection (c) of
15 this section may give a guaranty to the same effect, which guaranty
16 shall contain, in addition to that person's own name and address, the
17 name and address of the person residing in the United States from
18 whom the guaranty or undertaking was received;

19 (4) To use for his own advantage or to reveal, other than to the
20 commissioner or officials or employees of the Department of Energy
21 and Environmental Protection or other federal or state executive
22 agencies, or to the courts, or to physicians, pharmacists and other
23 qualified persons, needing such information for the performance of
24 their duties, in accordance with such directions as the commissioner
25 may prescribe, any information acquired by authority of this part
26 which is confidential under this part;

27 (5) Who is a registrant, wholesaler, dealer, retailer or other
28 distributor to advertise a product registered under this part for
29 restricted use without giving the classification of the product assigned
30 to it under section 22a-50;

31 (6) To make available for use, or to use, any registered pesticide
32 classified for restricted use or permit use for some or all purposes other
33 than in accordance with section 22a-50 and any regulations adopted
34 thereunder;

35 (7) To use any registered pesticide in a manner inconsistent with
36 restrictions prescribed under this part, subsection (a) of section 23-61a,
37 section 23-61b or inconsistent with labeling;

38 (8) To use any pesticide which is under an experimental use permit
39 contrary to the provisions of the permit;

40 (9) To violate any order issued under section 22a-62;

41 (10) To violate any suspension order issued pursuant to this part;

42 (11) To violate any cancellation of registration of a pesticide;

43 (12) To violate any provision of section 22a-56 or any regulation
44 established pursuant to this part;

45 (13) To violate any provision of section 10-231b, 10-231c, 10-231d or
46 22a-57;

47 (14) To knowingly falsify all or part of any application for
48 registration, application for experimental use permit, any records
49 required to be maintained pursuant to section 22a-58, any report filed
50 under this part, or any information marked as confidential and
51 submitted to the commissioner under any provision of this part;

52 (15) Who is a registrant, wholesaler, dealer, retailer or other
53 distributor to fail to file reports required by this part;

54 (16) To use any pesticide in tests on human beings unless such
55 human beings (A) are fully informed of the nature and purposes of the
56 test and of any physical and mental health consequences which are
57 reasonably foreseeable, therefrom, and (B) freely volunteer to
58 participate in the test;

59 (17) Who is a certified applicator, to apply a pesticide in a faulty,
60 careless or negligent manner.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	October 1, 2013	22a-61(b)
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ENV *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Effect	FY 14 \$	FY 15 \$
Judicial Dept.	GF - Revenue Gain	Less than 10,000	Less than 10,000

Municipal Impact: None

Explanation

The bill results in a potential minimal revenue gain of less than \$10,000 annually associated with fines levied against certified pesticide applicators. It is anticipated that relatively few offenses will occur and be charged¹.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

¹ Based on the number of offenders convicted for similar violations, it is not expected that the bill will have a fiscal impact on the Department of Correction.

OLR Bill Analysis**SB 916*****AN ACT AUTHORIZING CIVIL PENALTIES FOR THE FAULTY, CARELESS OR NEGLIGENT APPLICATION OF PESTICIDES.*****SUMMARY:**

This bill makes it unlawful for a certified applicator to apply pesticide in a faulty, careless, or negligent manner.

The bill subjects a violator to penalties under the Connecticut Pesticide Control Act (CGS § 22a-46 *et seq.*). Violators are subject to a civil penalty of up to \$2,500 for each day a violation continues. Knowingly committing a violation of the law subjects a violator to criminal fines, prison time, or both.

The bill applies exemptions for certain people under existing law to the application prohibition, such as people using pesticide according to an experimental use permit.

EFFECTIVE DATE: October 1, 2013

PENALTIES UNDER EXISTING LAW***Civil and Criminal***

The bill makes it unlawful for a certified applicator to apply pesticide in a faulty, careless, or negligent manner and applies existing civil and criminal penalties to violators.

It authorizes the attorney general, on the complaint of the Department of Energy and Environmental Protection (DEEP) commissioner, to seek a civil penalty in Hartford Superior Court against violators of up to \$2,500 per day for each day a violation continues.

The law subjects certain knowing violators of the Pesticide Control

Act to criminal penalties. Under the bill, only if a certified applicator commits the prohibited application knowingly would he or she be subject to criminal penalties as follows:

1. a commercial applicator who knowingly violates the law faces a fine of up to \$5,000, imprisonment for up to one year, or both.
2. a private applicator who knowingly violates the law faces a fine of up to \$1,000, imprisonment for up to 30 days, or both.

Of the three prohibited acts, faulty, careless, and negligent application, it appears faulty or careless application could subject a certified applicator to these criminal penalties because they could be committed knowingly.

Under the Pesticide Control Act, the action, omission, or failure to act of any officer, agent, or other person acting for or working for any person is deemed to be the action, omission, or failure to act of the employer as well as the employee.

Certification Denial, Revocation, or Suspension

The law, unchanged by the bill, allows the DEEP commissioner to deny, revoke, or suspend an applicator's certification for applying a pesticide in a faulty, careless, or negligent manner.

BACKGROUND

Pesticide Applicator Certification

Under the Pesticide Control Act, anyone who uses or supervises the use of a restricted use pesticide in the state must have a private or commercial certificate or permit unless the use is directly supervised by a certified applicator. A "restricted use pesticide" is a pesticide or its use that is classified as restricted by the U.S. Environmental Protection Agency or the DEEP commissioner.

COMMITTEE ACTION

Environment Committee

Joint Favorable

Yea 28 Nay 0 (03/04/2013)